



February 25, 2010

The Honorable Cynthia L. Quarterman
 Administrator
 Pipeline and Hazardous Materials Safety Administration
 U.S. Department of Transportation
 1200 New Jersey Avenue, S.E.
 Washington, DC 20590-0001

RE: Hazardous Materials: Transportation of Lithium Batteries, Notice of Proposed Rulemaking,
 Docket No. PHMSA-2009-0095

Dear Administrator Quarterman:

The undersigned companies and organizations constitute a broad spectrum of the United States economy. Indeed, when taken together, the business activity of these manufacturing and transportation firms (and their various trade associations) **are** a major portion of the domestic and international economy of the United States.

To a very large extent, today's economy and the products that support it are fueled by lithium batteries that power virtually all modern electrical devices. The Notice of Proposed Rulemaking published by the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the Department of Transportation seriously threatens the ability to distribute the batteries necessary to the working of cell phones, computers, cameras, medical devices, hybrid and electric vehicles and military equipment among other products relied upon by a large segment of the world population. If the PHMSA rule is finalized as written, the production and transportation of lithium batteries will be seriously hampered, with a corresponding negative impact on the nation's supply chain and on an economy already struggling to exit the most serious recession since the Great Depression of the 1930s. Most of the signatories to this letter will be filing comments detailing individual impacts of the proposed rule, but the group collectively feels that it is extremely important to recognize the potentially devastating effect on the economy generally if the current proposal is adopted.

Having said that, we recognize that the issue of the flammability of lithium batteries is an issue to be addressed by the federal government, and addressed as expeditiously as possible consistent with scientific facts and with care not to destroy a major element of economic growth. A major problem with the instant rulemaking is that it does not allow for adequate consideration and full understanding of the potential impact this proposal will have on the economy and variously affected industries. In fact, we understand the International Federation of Air Line Pilots' Association (IFALPA) recently suggested to the ICAO Dangerous Goods Panel that additional testing of lithium batteries may be prudent because "*a thorough and accurate understanding of the risks of lithium batteries in transportation is necessary to develop the best possible regulations.*"

Therefore, we suggest that the Notice of Proposed Rulemaking be converted to an **Advance** Notice of Proposed Rulemaking seeking factual input from the industry before proposing final rules. In order to obtain this input, consideration should also be given to the formation of an Advisory Committee of industry experts to provide advice to PHMSA. This Committee could be chartered with a relatively short life span so as not to delay any final rule. In short, PHMSA should not rush to judgment without an adequate factual base.

If there are any questions with respect to this document, please contact Steve Alterman, President, Cargo Airline Association at 202.293.1030 or salterman@cargoair.org.

Sincerely yours,

A123Systems, Inc.
ABX Air, Inc.
Air Transport Association
Airforwarders Association
Cargo Airline Association
Consumer Electronics Association
Consumer Electronics Retailers Coalition
CTIA - The Wireless Association
Digi-Key Corporation
Energy Sales, Inc
E-One Moli Energy
Express Association of America

Fedco Electronics
FedEx Express
Information Technology Industry Council
International Air Cargo Association
International Battery
International Imaging Industry Association
Kenwood USA Corporation
Milwaukee Electric Tool Corporation
Mobile Power Solutions
National Electrical Manufacturers Association
PRBA - The Rechargeable Battery Association
Rechargeable Battery Recycling Corporation

Retail Industry Leaders Association
Saft America
Spectrum Brands, Inc
SureFire, LLC
Techtronic Industries
The International Air Transport Association
TTI Floor Care North America
Ultralife Corporation
UPS Airlines
Valence Technology

cc: Magdy El Sibaie, PHMSA
Charles E. Betts, PHMSA
Kevin A. Leary, PHMSA
Janet McLaughlin, FAA
Docket Management System